



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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August 24, 2015

Julie M. Snyder
Principal, Equity Advocates
1107 Ninth Street, Suite 901
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A 15-150

Dear Ms. Snyder:

This letter responds to your request for advice regarding lobbying provisions of the Political Reform Act (the "Act").¹

QUESTION

1. Are you considered a new lobbyist when you terminated your employment as a registered lobbyist with Housing California in December 2014 and then started your own lobbying firm with two clients, Public Advocates and Planning and Conservation League in May 2015?

2. Are you able to continue lobbying despite your failure to take the required ethics course by June 2015?

CONCLUSION

1. No. Any lobbyist who registers for one legislative session, and was previously registered for a prior legislative session, is renewing his or her registration, not submitting a new registration. Since you were registered for the previous legislative session, you are considered to have renewed your registration. Changing employment as you have described does not change this conclusion.

2. No. Nothing in the Act or its implementing regulations gives the Commission authority to waive the ethics course requirement.

FACTS

Through December 2014, you were registered as an in-house lobbyist for Housing

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

California. You left the organization at the end of the year and were not employed as a lobbyist during January - May of 2015.

In May 2015, you started your own lobbying firm with two clients, Public Advocates and Planning and Conservation League. While filling out your Form 604 in May, you noted that, as a new lobbyist, you needed to take the ethics class within 12 months. In contrast, if you were renewing your certification, the form stated the deadline was "June 30 of the following year." You planned to take the class this fall, well within either time frame.

However, on July 16, you received a letter from the Secretary of State's Office stating your conditional certification had been revoked as of July 1, due to failure to take the ethics class.

In a phone discussion with that office on July 28, staff indicated that you qualified as renewing your certification, because you had been registered in 2014. Additionally, she said the FPPC interpreted the phrase "of the following year" under your facts to mean June of 2015. You were familiar with this deadline, having filed for renewal many times at Housing California, but you assumed you qualified as a "new lobbyist."

You also stated that you believe the Form 604 says you must take the class "by June 30 of the following year," i.e. 2016. You are more than willing to take the first available ethics class. However, you do not believe it is just to revoke your certification until you do so. Instead, you request permission to remain conditionally registered until you complete the course.

ANALYSIS

Under Section 86100(a), "individual lobbyists shall prepare lobbyist certifications pursuant to Section 86103 for filing with the Secretary of State as part of the registration of the lobbying firm in which the lobbyist is a partner, owner, officer, or employee or as part of the registration of the lobbyist employer by which the lobbyist is employed." The requirements for lobbyist certification include completion of an ethics course. (Section 86103(d)(1).) In this regard the Act states:

"In the case of a lobbyist who filed a completed lobbyist certification in connection with the last regular session of the Legislature, a statement that the lobbyist has completed, within the previous 12 months or will complete no later than June 30 of the following year, the course described in subdivision (b) of Section 8956. If the lobbyist certification states that the lobbyist will complete the course no later than June 30 of the following year, the certification shall be accepted on a conditional basis. Thereafter, if the lobbyist completes the course no later than June 30 of the following year, the lobbyist shall file a new lobbyist certification with the Secretary of State which shall replace the conditional lobbyist certification previously filed. If the lobbyist certification states that the lobbyist will complete the course no later than June 30 of the following year and the lobbyist fails to do so, the conditional lobbyist certification shall be void and the individual shall not act as a lobbyist pursuant to this title until he or she has completed the course and filed with the Secretary of State a lobbyist certification stating that he or she has completed the course and the date of completion. It shall

be a violation of this section for any individual to act as a lobbyist pursuant to this title once his or her conditional certification is void.” (Section 86103(d)(1).)

A new lobbyist may attend the lobbyist ethics orientation course any time during the 12 months following his or her initial registration. (Section 86103(d)(2).) However, any lobbyist who registers for one legislative session, and was previously registered for a prior legislative session, is renewing his or her registration even if the lobbyist had terminated his or her registration. Specifically, we have advised that, in order to ensure that continuing lobbyists attend the ethics orientation course at regular intervals, a lobbyist’s registration would be deemed a renewal of registration if the lobbyist was registered for the 1997-98 legislative session, terminated his or her registration during 1998, then filed new registration documents for the 1999-2000 session. (*Smith* Advice Letter, No. M-99-155.)

Since you were registered for the 2013-2014 legislative session and continued to act as a lobbyist in the 2015-2016 session, you were required to complete the course by June 30, 2015. This conclusion would not change even if you had formally terminated your registration, regardless of the session in which his registration was terminated.

Pursuant to Section 86103(d)(1), you may not act as a lobbyist until you have completed the course and filed with the Secretary of State, a lobbyist certification stating that you have completed the course and the date of completion.

There is no authority under the Act or the regulations to grant a waiver of the requirement that a lobbyist complete ethics training. (*McCormick* Advice Letter, No. A-02-013; *Chafe* Advice Letter, No. A-01-153.) Thus, no such waiver can be granted.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Hyla P. Wagner
General Counsel

/s/

By: John W. Wallace
Assistant General Counsel
Legal Division

JWW:jgl